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ACTS AND LAWS,

Passed by the Great and General Court
or Assembly of His Majesties Province
of the Massachusetts-Bay, in
New-England.

Begun at *Boston* the Twenty-ninth Day of *May*, 1695.
and continued by several Adjournments until *Wednesday*
the Twentieth of *November* following.

*Anno Regni Guilielmi Tertii, Angliæ, Scotiæ,
Franciæ, et Hiberniæ, Regis, Septimo.*



B O S T O N.

Printed by *Bartholomew Green* and *John Allen*, Printers
to the Governour and Council. 1695.

ACTS

A. D.

LAWS

of the General Court
of the Province of
Massachusetts

in the Year of our Lord
1780

Printed by
G. B. Loring
at the Press of
J. B. Loring
in the City of Boston



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Strangers Arresting Inhabitants.

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Anno Regni *GUILIELMI Tertii, Angliæ, Scotiæ,
Franciæ, et Hiberniæ, Regis, Septimo.*

An Act,

That all Persons not being Free-holders
or Settled Inhabitants, Commencing Suit,
shall give Security before Process be granted.

WHEREAS for the more due and equal Administring
of Justice in Civil Causes, the Judgment given
upon the first Tryal is not final, the Law allowing
the Party aggrieved an Appeal therefrom, or a
Review of the same cause. But so much as Stran-
gers and others not Resident within the Province, do many times by
themselves or Attorneys Commence Suits against Freeholders or Settled
Inhabitants within the same, and Recover Judgment and Satisfaction
thereon, and Remove themselves, or Conceal and Convey away the Moneys
so received; whereby the adverse Party is prevented of Serving Process
to bring the cause to another Tryal by Review, and by means thereof
may suffer great wrong. To the intent therefore that all His Maje-
sties Subjects may receive and enjoy the benefit of the Remedy
provided by Law as above-said.

Be it Enacted by the Lieutenant Governour, Council and
Representatives in General Court Assembled, and by the
Authority of the same,

That every person, not being a Freeholder or Settled Inhabi-
tant, having dwelt within the Province by the space of three
years before, intending by himself or Attourney to Commence
Suit against any person or persons within this Province, before
Process be granted, shall by himself or Attourney enter into Bond,
with two sufficient Sureties (being Freeholders, or Settled Inhabi-
tants as aforesaid) unto the Party against whom Process is de-
manded, in the Clerks Office of the Court, where the Suit is to
be brought, in double the Sum to be Sued for; with condition
to answer and satisfy the Defendant his Costs arising by such
Suit, in case the Plaintiff do not Recover against him: And that
if Judgment be rendred for the Plaintiff, and the Defendant shall
Review the same within the space of eighteen months next fol-
lowing, and not afterwards, that he shall well and truly pay
and satisfy unto the Party bringing such Action of Review, all
such Sum and Sums of Money as he shall recover thereupon,
with the Costs arising thereby.

Security to
be given be-
fore Process
granted.

And all Clerks of Courts are hereby Ordered and Required to take such Bond, before they make out Process in the name of, or to any Stranger, or other person not being a Freeholder or Settled Inhabitant as aforesaid, or to the Attourney of any such, and safely to keep the same, for the use and benefit of the Party to whom it shall be made; For which, such Clerk shall demand the Fee of Two Shillings and no more, to be paid by him at whose Suit the Process is granted, and to be again allowed him in his Costs if he recover. And if it happen Process to be made out to any Stranger or other Person not being a Freeholder or Settled Inhabitant as aforesaid, or his Attourney, without taking such Bond and Security, and the same be pleaded at the time of Tryal before Issue joyned (and the Bond or a Certificate thereof from the Clerk cannot be produced or shewn forth) it shall be a good Plea for abatement of the Writt, and be accordingly allowed of by the Judges, any Law, Usage, or Custome to the contrary notwithstanding.

And be it further Enacted by the Authority aforesaid, That every Attourney Commencing and Prosecuting any Suit in the name of any Stranger or other Person not Residing within the Province, shall be held and reputed in Law as the Principal in such Suit, and be liable to be Served with Process against his Estate or Person to a Review of any such Suit as the Principal himself might be, if present in his own person: Provided such Action of Review be brought and commenced within Eighteen Months next following the time of the first Tryal, or Tryal upon an Appeal as aforesaid, and not afterwards.

And in all cases of like nature now depending, before Execution be granted, Security as aforesaid shall be given to respond & satisfy such Sum and Sums of Money that shall be Recovered upon a Review of any such Action, with the Costs arising thereon; and the Attourney that Commenced and Prosecuted any such Case, shall be liable as aforesaid to be Served with Process in his own Estate or Person to such Action of Review.

And be it further Enacted by the Authority aforesaid, That if any Stranger or his Attourney, after Suit Commenced, or Judgment given as aforesaid, shall withdraw himself or keep out of the way, so as he cannot be Served with a Writ within the time before limited to Review the Cause: It shall be sufficient in Law to bring a Review of such Judgment at any time within Eighteen Months next after rendering of the same, upon Summons left at the House where such Stranger or Attourney Commencing Suit in his name, had his usual abode within the Province, fourteen days before the Sitting of the Court: Proof of such Summons so left, being made upon Oath before the Court.

An Act,

For the better discovery and more
Effectual Suppressing of
Unlicensed Houses.

FORASMUCH as divers Ill disposed and Indigent Persons, the Pains and Penalties in the Laws already made not regarding, are so hardy as to presume to Sell and Retail Strong Beer, Ale, Cyder, Perry, Wine, Rhum, or other Strong Liquors or mixt Drinks, and to keep common Tipling Houses, therein Harboursing and Entertaining Apprentices, Indians, Negroes, and other idle and dissolute Persons, tending to the ruin and impoverishment of Families, and to all Impiety and Debaucheries; And if Detected and Convicted of any such Offence, are unable to satisfy the Fine imposed by Law for the same: And cannot be punished by Imprisonment without wrong to their Families.

For Remedy whereof, and the more
effectual Deterring & Suppressing
of such Evil Practices.

Be it Enacted by the Lieutenant Governour Council and Representatives in General Court Assembled. and by the Authority of the same.

That when and so often as any person being duely Convicted of keeping a common Tipling House, or Selling Strong Beer, Ale, Cyder, Perry, Wine, Rhum, or other Strong Liquors or mixt Drink by Retail, without Licence first orderly had and obtained for the same, shall be unable to answer and satisfy the Fine imposed by Law for such Transgression, together with the Charge of Prosecution; or that shall not pay such Fine and Charges (and likewise give Bond for the good Behaviour, if it be a second Conviction) within the space of twenty four hours next after Sentence declared in that respect: It shall and may be lawful to and for

Persons unable to pay the Fine to be Whipt.

two Justices of the Peace, or the Court before whom the Conviction shall be, to Order such Offender to be openly Whipt with so many Stripes as in their Discretion shall be thought fit, not less than Ten, nor exceeding Fifteen for one Offence; And to Restrain the Offender in Prison, until the Fine and Charges as aforesaid are paid, or the Order for Corporal Punishment be Executed.

And be it further Enacted by the Authority aforesaid,

Officers
power to seiz
drink found
in unlicensed
houses.

That it shall and may be lawful to and for any Grand-jurors, Constable, Tithing-men, and the Officers employed in and about the Excise, *Ex Officio* to enter into the House and Dependencies thereof, of any such person as aforesaid, suspected of Selling Strong Drink without Licence, having once been Convicted thereof, and taking with them such assistance as they shall think needful, to make search for Strong Drink, and finding any quantity of any kind of the Drinks herein before mentioned, to seiz and secure the same, so as it be within the space of one year next after such Conviction, and to Inform thereof at the next General Sessions of the Peace to be holden within the same County, or unto two Justices of the Peace (*Quorum Unus*) within the same; And if the quantity of Drink so seized shall be judged by such Court or Justices to be more than for an ordinary use of the Family, and what their condition may reasonably allow them to Expend, or otherwise to have in their Custody: It shall and may be lawful to and for such Court or Justices to declare all such Drink to be Forfeited; one Moiety thereof unto the Party that Seized and Informed of the same, and the other Moiety to the Select-men or Overseers of the Poor of the Town where it was Seized, to the use of the Poor there, and to Order the Disposal thereof accordingly.

Appeal from
the Sentence
of two
Justices,
Provided nevertheless, That any person agrieved at the Sentence of any two Justices for either of the Offences before-mentioned may Appeal therefrom unto the next General Sessions of the Peace within the same County; Provided such Appeal be claimed in due time, and Security given in manner as the Law in such cases directs.

AN ACT,

An Act,

For the further Continuance
of several Acts, relating to
the Prosecution of
the War.

BE it Enacted by the Lieutenant
Governour, Council and Representa-
tives, in General Court Assembled
and by the Authority of the same.

That the Act Enacted, *in* *an* Act, For the Continuation of
several Acts therein mentioned that are near Expiring; made
and passed at the Session of this present General Assem-
bly, begun and held at *Boston* the Twenty-ninth Day of
May, last past: namely, *An Act, For the Prosecution of the*
Indian Enemy and Rebels, and Preserving such as are Friends,
with the several Proviso's and Additions thereto in the
said Act of Continuation Expressed, shall be, and hereby
are revived and further continued to be, remain and abide
in full force unto the end of the first Session of the next
General Assembly, to be begun and held on the last
Wednesday of May, One Thousand Six Hundred Ninety
Six, and no longer. Provided nevertheless, That the Saving
in the said Act for Prosecution of the Indian Enemy, &c.
referring to the County of *Hampshire* shall be, and hereby
is Repealed.

Prosecution
of the Indian
Enemy &c.

Repeal of the
Saving in
Hampshire;

Indians found
within 5
miles on the
East side, or
20 miles on
the West side
of Connecti-
cut River to
be held as
Enemies.

And it is further Enacted,

That all Indians who shall be found within five miles
of *Connecticut* River on the Easterly side thereof, or within

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twenty

twenty miles on the Westerly side of the same, shall be deemed and accounted to be Enemies, and treated as such, and the same Reward and Allowance shall be made and given to any of His Majesties Subjects that shall kill, or take and bring in Prisoners any Indian or Indians found within the said Limits as by the said Act, and the Act for Continuation thereof is ordered and directed for any that shall be killed or taken within other parts of this Province, during the continuance of said Acts.

And be it further Enacted by the Authority aforesaid,

Assistance to be given to the Province of Hampshire. That the other Act mentioned in the said Act of Continuation, namely, The Act Entituled, *An Act, For the giving Succours and Assistance to the Neighbouring Provinces and Colonies against His Majesties Enemies*; to extend only unto Succours and Assistance for the Province of New-Hampshire as need may require; and the Governour, with the advice and consent of the Council shall direct and order. Be and hereby is Revived and further Continued to be, remain and abide in full force unto the end of the first Session of the next General Assembly to be begun and held on the last Wednesday in May, One Thould Six Hundred Ninety six, and no longer.

AN ACT,

An Act,

For taking of Affidavits out
of Court.

FORASMUCH as it is often necessary, That Witnesses in Civil Causes be Sworn out of Court, when by reason of their going to Sea, living more than Thirty Miles distant from the place where the Cause is to be Tried, Age, Sicknes, or other Bodily Infirmitie, they are rendered incapable of Travell, and appearing in Person at the Court. To the intent therefore that all Witnesses may indifferently testify their certain knowledge, and the whole truth in the Cause they are to speak unto.

Be it Enacted by the Lieutenant Governour, Council and Representatives, in General Court Assembled, and by the Authority of the same,

That for either of the Reasons before mentioned, and not otherwise, every Justice of the Peace, or others lawfully Com-
Adverse party to have notification.
missionated and Impowred thereto, by two or more of the Justices of the Superiour or Inferiour Court respectively may take Affidavits out of Court, so as a Notification with reasonable time be first made out and delivered to the adverse Party (if within twenty miles of the place) or left at the place of his Dwelling or usual Abode, to be present at the time of taking such Affidavit, if he think fit: and every such Witness shall be carefully Examined and Cautioned to testify the whole truth; and being Sworn, the Justice shall attest the same, with the day, month and year of the Caption thereof, and that the adverse party was present (if so) or that a Notification was sent him, and shall Seal up the Testimony, and deliver it to the Party (if desired) at whose Request it was taken: And no Person Interested shall write or draw up the Testimony of any Witness in such Cause, nor any Attourney in his Clients Cause; And if it manifestly appear any Testimony to be Written or Drawn up by any Interested, or the Attourney in the Cause, or be returned from any Justice of the Peace by other hand than his own, into the Court where the same is to be used, unsealed,
No person interested or the Attourney to write Affidavits.
Affidavits to be returned to the Court Sealed up.

or the Seal having been broken up, all such Testimonies shall be rejected by the Court, and be utterly void, and of no Effect in Law.

And be it further Enacted by the Authority aforesaid,

Justices to
grant Sum-
mons for
Witnesses.

That every Justice of the Peace shall be, and hereby is Impow-
red, upon Request to him made, to Grant Summons for the Ap-
pearance of any Witness before him in any Civil or Criminal Cause,
where such Witness is Bound to Sea before the time of Tryal, and
to take his Deposition in such Cause, the adverse Party being pre-
sent, or Notification sent him as aforesaid.

Witnesses to
Bonds & o-
ther writings
may be
Sworn with-
out notifica-
tion.

Provided nevertheless, That Witnesses to Bonds, Specialties, Let-
ters of Attourney, and other Instruments, in Writing under the
Hand of the Party Executing the same, or to Accompts or Testi-
monies relating to Persons out of this Government, or to be sent
beyond Sea, may be Sworn without such Notification as aforesaid.

**And be it further Enacted by the Autho-
rity aforesaid.**

Affidavits in
perpetuam rei
memoriam to
be Sworn in
Court or be-
fore 2 Justices

That all Affidavits relating to the Possession of any Houses or
Lands, or any other matter, *in perpetuam rei memoriam*, shall be
made and taken before some Court of Record, or two or more
Justices of the Peace, *Quorum Unus*.

And it is further Enacted,

Penalty for
perjury.

That all Persons For-swearing themselves in any such Affidavit
taken as aforesaid, shall incur the same Penalties, as if they had
been taken in open Court.

AN ACT,

An Act,

To prohibit the Exportation
of Grain, &c.

WHEREAS the Harvest in the Summer past, fell greatly short ; so as it's feared there will not be a sufficiency of Grain, to serve the Occasions of the Province, untill the next Crop.

Be it therefore Enacted by the Lieutenant Governour Council and Representatives in General Court Assembled, and by the Authority of the same.

That from and after the Publication of this Act, during the Continuance of the same ; no Grain of any sort, *Bisket* or *Flower* Grain, *Bisket* shall be Exported or Carried out of this Province by Land or *Flower* Water (except what is brought from the *Western* Towns to *Boston*) laden with it - *Hartford*, in order to be Transported from thence to *Boston*) tent to be ex-
Nor shall any Grain, *Bisket* or *Flower* be laden or put on Board any Ship or other Vessel, or into any Carriage with intent to be Exported and Carried out of the Province by Land or Water, other than what shall be for the necessary Victualing of Ships and other Vessels Sayling out of this Province ; on pain of Forfeiting all such Grain of every sort, *Bisket* and *Flower* : One Moiety thereof unto the Select-men or Overseers of the Poor in the Town or Place where the same shall be Seized, to the use of the Poor there, and the other Moiety to him or them that shall Inform and Sue for the same in any of His Majesties Courts of Record. ported to be Forfeited.

And all Officers employed for the Entering and Clearing of Officers to Vessels, for the Duties of *Import* and *Tunnage*, for Observance see that this of the Acts relating to Trade and Navigation, are hereby strictly Act be duely Commanded and Required to see, that this Act be duely kept observed, and observed, and to make Seizure of all Grain, *Bisket* and *Flower* about to be Exported or carried out of this Province contrary thereto.

Power in the Governour & Council to grant Licences, **Provided** nevertheless, That it shall be in the power of the Governour and Council, from and after the Tenth Day of *March* next, as they may find cause, to grant Licences to particular persons for Exportation of any kind of Grain, *Bisket* or *Flower*: this Act or any thing therein contained notwithstanding.

And for the better Encouragement
to the bringing of Provisions
into this Province.

**Be it Enacted by the Authority
aforesaid,**

**Vessels bring-
ing in Provi-
on freed from
Tunnage.** That all Vessels that shall Import Provisions (the major part of their Lading being such) shall be Exempted and freed from the Dutys of Tunnage for that Voyage. Any Law or Usage to the contrary notwithstanding.

**Provision
imported not
to be Sold by
whole Sale,
untill the end
of 3 dayes** **And** upon the Arrival of any Grain, *Bisket* or *Flower*, for Sale, in any Port or Harbour within this Province. The Owner, or Vender thereof shall not Sell or Dispose of the same in any greater quantity, than six Bushels of Grain, or a Barrel, or half Barrel of Flower, or more than one Hundred Weight of Bisket to one person, until he shall first have given publick notice by a Cryer three dayes before-hand, of the kinds and place where such Provision is to be Sold; during which said three dayes, all persons shall have free liberty to Buy of the said Provisions in the like or lesser quantity than what is before expressed, for the Supply of their Families, after the rate of the Whole-Sale price at that time, without any Exaction, that the Poor be not Oppressed.

Provided, That this Act shall continue in Force unto the end of the first Session of the next General Assembly, to be held upon the last *Wednesday* in *May*, One Thousand Six Hundred Ninety Six, and no longer.

F I N I S.

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